

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

FILED

DEC 11 2014

UNITED STATES OF AMERICA,

Plaintiff,

V.

MARK A. AVALOS,

Defendant.

U. S. DISTRICT COURT
EASTERN DISTRICT OF MO

No.

4:14CR394 HEA

INFORMATION

The United States Attorney charges that:

1. The Mortgage Store, Inc., (TMS) was a Missouri corporation engaged in the business of brokering mortgages. By 2008, TMS had offices in four states and had hundreds of employees. Title America, Inc.(TA), was a related business which did closings on the mortgages issued by TMS. Jason W. Rauschelbach had a fifty percent ownership interest in and was the CEO of TMS and the president of Title America. John York and his wife, Toni York each had a twenty-five percent ownership interest in TMS and TA. Mark A. Avalos, the defendant, was the controller of TMS and TA. Rauschelbach and John York controlled the financial operations of TMS and TA. Mark A. Avalos, the defendant, managed the checking accounts of TMA and TMS so as to facilitate the expenditures authorized by Rauschelbach and York. Checks on accounts for TMS and TA were prepared in the normal course of business at corporate offices in St. Charles County and St. Louis County.

2. In 2008, there were not sufficient funds available to fund disbursements from TMS, including payments to and for the benefit of Rauschelbach and John York, and, in addition, to meet all of the expenses incurred by TMS, including delinquent federal employment tax liabilities.

3. At all times pertinent to this information, a checking account was maintained by TMS at First Bank of the Lake in Lake Ozark, Missouri, and a checking account was maintained by TA at Enterprise Bank in Clayton, Missouri. Both banks were financial institutions under Title 18, United States Code, Section 20 with deposits insured under the Federal Deposit Insurance Act. Mark A. Avalos, the defendant, managed disbursements from each of these accounts as well as other accounts maintained in the names of TMS and TA.

4. In order to meet TMS expenses and to fund disbursements to and for the benefit of Rauschelbach and the Yorks, Mark A. Avalos, the defendant, caused insufficient funds checks drawn on the checking accounts of both TMS and TA to be deposited between those accounts in such a way that the “float” concealed the true negative balances of each account. The TMS account at the First Bank of the Lake had a negative balance of approximately \$850,000.00 when the bank stopped accepting the floated checks in June, 2008. TMS effectively ceased doing business by July 31, 2008.

7. Mark A. Avalos, the defendant, and others defrauded the banks each time they caused an insufficient funds check to be deposited at either bank and each time funds were disbursed from one of the accounts.

8. From on or about May 29, 2008, to on or about June 4, 2008, in the Eastern District of Missouri and elsewhere,

MARK A. AVALOS,

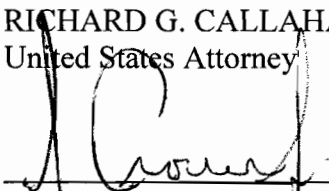
the defendant, acting with others, executed and attempted to execute a scheme to defraud Enterprise Bank and First Bank of the Lake, both being financial institutions whose deposits are insured under the Federal Deposit Insurance Act, and to obtain monies, funds, credits, assets,

securities and other property owned by, or under the control of, Enterprise Bank and First Bank of the Lake, by means of materially false and fraudulent pretenses, representations and promises, by causing checks to be written on the TA account at Enterprise Bank to the Yorks in amounts of \$5,000.00 each and for the benefit of Rauschelbach in the amount of \$10,000.00, which checks were paid by Enterprise Bank, when, as the defendant well knew, the TA account had, in fact, a negative balance and said checks and other checks drawn on that account were able to be paid only as a result of the deposit into that account of a series of insufficient funds checks drawn on the TMS account at First Bank of the Lake in amounts ranging from \$505,000.00 to \$750,000.00.

In violation of Title 18, United States Code, Sections 1344 and 2.

Respectfully submitted,

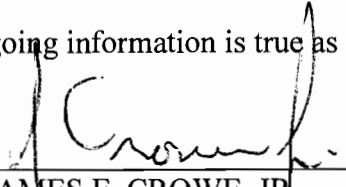
RICHARD G. CALLAHAN
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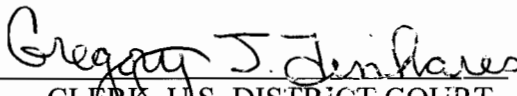
UNITED STATES OF AMERICA)
EASTERN DIVISION)
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I, James E. Crowe, Jr., Assistant United States Attorney for the Eastern District of Missouri,
being duly sworn, do say that the foregoing information is true as I verily believe.



JAMES E. CROWE, JR.

Subscribed and sworn to before me this 19th day of November, 2014.



CLERK, U.S. DISTRICT COURT

By: 

DEPUTY CLERK